



August 11, 1999

Ms. Lisa A. Brown
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR99-2280

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128274.

The Deer Park Independent School District (the "district"), which you represent, received a request for the "names and addresses of all employees who are newly retired" and "copies of the forms signed by employees indicating that they want their names and addresses to remain confidential."

You claim that the copies of the forms requesting confidentiality are excepted from disclosure under section 552.024 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.117 of the Government Code excepts from required public disclosure the home addresses, telephone numbers, social security numbers, or information revealing whether a public employee has family members when the public employees request that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold the specified information of a current or former employee or official who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold the information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989).

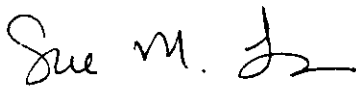
If the employee or official has elected to not allow public access to this information in

accordance with the procedures of section 552.024 of the Government Code, we believe that the district must withhold this information from required public disclosure pursuant to section 552.117. You submitted a representative sample of a written request by an employee that only his home address and home telephone number remain confidential.¹ Thus, you may withhold only the employee's home address and home telephone number as the employee so indicated on the form. The remaining information in the form must be released.

We caution you, however, that federal law may prohibit disclosure of this employee's social security number. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994). Based on the information you have provided, we are unable to determine whether the social security numbers are confidential under this federal statute. We note, however, that section 552.352 of the Public Information Act imposes criminal penalties for the release of confidential information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sue M. Lee", with a stylized flourish at the end.

Sue M. Lee
Assistant Attorney General
Open Records Division

SML\nc

Ref: ID# 128274

encl: Submitted documents

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

cc: Mr. Joe Tijerina
Executive Director
Texas State Teachers Association
5021 West Creek Drive
Fort Worth, Texas 76133
(w/o enclosures)